U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 30291387

Date: FEB. 21, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a journalist, seeks classification as an individual of extraordinary ability. This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that she qualifies as an individual of extraordinary ability. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motions.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner submits a statement in which she reiterates arguments and evidence previously presented, and she submits documentation previously included in the record. She states that "the AAO failed to consider the *evidence as a whole*" (emphasis in the original). She accuses the decision of excessively focusing on the significance of the individual components of her submission and of failing to consider the totality of the record, citing *Chursov v. Miller*, 18-cv-286 (PKC) (S.D.N.Y. May 13, 2019). We note that, in that case, the petitioner challenged USCIS's determination that he failed to submit evidence to demonstrate his eligibility under two criteria. According to the ruling, USCIS had determined that letters of support detailing the petitioner's original work "were 'not presumptive evidence of eligibility' and that an original contribution 'must be demonstrated by preexisting, independent, and corroborating evidence.'" The court found that USCIS had not adequately explained why multiple letters of support, considered as a whole, did not constitute evidence of originality. Here, the Petitioner has not provided an explanation of how we erred in reviewing the evidence of record or specifically identified any evidence that we did not previously consider. The dismissal of the Petitioner's appeal thoroughly addressed the evidence submitted,

including the letters of support, and described how the evidence did not sufficiently demonstrate her eligibility under the relevant criteria. The dismissal also explicitly advised that we reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought. Stating that we "failed to consider documentary evidence" and "incorrectly applied the law and policy" does not establish the Petitioner's opinions as factual. The requirements of a motion to reconsider cannot be met by broadly disagreeing with our conclusions; the motion must demonstrate how we erred as a matter of law or policy. *See Matter of O-S-G-*, 24 I&N Dec. at 56-58 (finding that a motion to reconsider is not a process by which the party may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision).

Regarding *Chursov v. Miller*, the Petitioner's statement also includes the following:

> To be clear, this means that a Petitioner-Beneficiary should not be required to demonstrate extraordinary ability for each separate criterion, but instead that the Service finds meeting at least three (3) of the prescribed criteria sufficient to demonstrate extraordinary ability. Therefore, it can be stated that the Service wrongly represents the standard of sufficiency for each criterion by suggesting that the beneficiary must demonstrate extraordinary ability through each criterion in and of itself which would be an abuse of discretion by imposing substantive or evidentiary requirements set forth in the regulations.

The reasoning behind the Petitioner's contention here is not clear. The dismissal of the Petitioner's appeal explained that, because she did not sufficiently demonstrate that she met at least three of the necessary criteria, a final merits decision was not warranted. There was no implication that extraordinary ability must be demonstrated under each criterion; the dismissal explained that the evidence of record must sufficiently show that the Petitioner has satisfied at least three criteria to then receive an evaluation of whether she qualifies as an individual of extraordinary ability. In light of the above, we conclude that this motion does not meet all the requirements of a motion to reconsider and must therefore be dismissed pursuant to 8 C.F.R. § 103.5(a)(4).

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion to reopen, the Petitioner submits copies of previously submitted evidence, as well as a brief in which she highlights certain aspects of her work history and achievements that she previously offered on appeal. Since the motion to reopen does not include new facts or new evidence, the motion does not meet the requirements of a motion to reopen and must be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.